

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**MARY JO MILLER**  
523 Indian Rock Circle  
Elizabeth, PA 17022

*Plaintiff,*

vs.

**ESBENSHADE, INC. d/b/a  
ESBENSHADE FARMS**  
220 Eby Chiques Road  
Mount Joy, PA 17552

-and-

**CHRIS ESBENSHADE**  
220 Eby Chiques Road  
Mount Joy, PA 17552

*Defendants.*

CIVIL ACTION

NO. \_\_\_\_\_

**JURY TRIAL DEMANDED**

**CIVIL ACTION COMPLAINT**

Plaintiff, Mary Jo Miller (*hereinafter* referred to as “Plaintiff”), by and through her undersigned counsel, hereby avers as follows:

**INTRODUCTION**

1. Plaintiff has initiated this action to redress violations by Defendants Esbenshade, Inc. d/b/a Esbenshade Farms (*hereinafter* “Defendant Farm”) and Chris Esbenshade (*hereinafter* “Defendant Chris Esbenshade”) (collectively “Defendants”) of Section 1981 of the Civil Rights Act of 1866 (“Section 1981” – 42 U.S.C. § 1981), Title VII of the Civil Rights Act of 1964 (“Title VII” - 42 U.S.C. §§ 2000e, *et. seq.*), the Age Discrimination in Employment Act (“ADEA” – 29

U.S.C. §§ 621 *et seq.*), and the Pennsylvania Human Relations Act (“PHRA”).<sup>1</sup> Plaintiff was unlawfully terminated and retaliated against by Defendants because of her race, ethnic, and/or national origin and complaints as well as her age and she suffered damages more fully described/sought herein.

### **JURISDICTION AND VENUE**

2. This Court has original subject matter jurisdiction over the instant action pursuant to 28 U.S.C. §§ 1331 and 1343(a)(4) because it arises under the laws of the United States and seeks redress for violations of federal laws. There lies supplemental jurisdiction over Plaintiff’s state-law claims because they arise out of the same common nucleus of operative facts as Plaintiff’s federal claims asserted herein.

3. This Court may properly maintain personal jurisdiction over Defendants because their contacts with this state and this judicial district are sufficient for the exercise of jurisdiction over Defendants to comply with traditional notions of fair play and substantial justice, satisfying the standard set forth by the United States Supreme Court in *Int’l Shoe Co. v. Washington*, 326 U.S. 310 (1945), and its progeny.

4. Pursuant to 28 U.S.C. § 1391(b)(1) and (b)(2), venue is properly laid in this district because Defendants are deemed to reside where it is subjected to personal jurisdiction, rendering Defendants residents of the Eastern District of Pennsylvania.

5. Plaintiff filed a Charge of discrimination and retaliation with the Equal Employment Opportunity Commission (“EEOC”) and also dual-filed said charge with the Pennsylvania Human Relations Commission (“PHRC”). Plaintiff has properly exhausted her

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<sup>1</sup> Plaintiff’s claims under the PHRA are referenced herein for notice purposes. She is required to wait 1 full year before initiating a lawsuit from date of dual-filing with the EEOC. Plaintiff must however file her lawsuit in advance of same because of the date of issuance of her federal right-to-sue-letter under Title VII and the ADEA. Plaintiff’s PHRA claims however will mirror her federal claims under the Title VII and the ADEA.

administrative proceedings before initiating this action by timely filing and dual-filing her Charge with the EEOC and PHRC, and by filing the instant lawsuit within 90 days of receiving a right-to-sue letter from the EEOC.

### **PARTIES**

6. The foregoing paragraphs are incorporated herein their entirety as if set forth in full.

7. Plaintiff is an adult who resides at the above-captioned address.

8. Defendant Esbensshade, Inc. *d/b/a* Esbensshade Farms is a shell-egg producer distributing and selling a wide range of specialty eggs such as (by way of examples only) cage free, Omega 3, organic, free range, and pasteurized and operates through three (3) locations generally: (1) 220 Eby Chiques Road, Mount Joy, PA 17552 (the Mount Joy complex, main office, and Feed Mill location); (2) 2569 Maytown Road, Marietta, PA 17547 (the Maytown complex); and (3) 2036 Mt. Pleasant Road, Mount Joy, PA 17552 (the North complex).

9. Defendant Chris Esbensshade is the President and CEO of Defendant Farms who oversees all operations, hiring/firing, terms and conditions of employee work environments.

10. At all times relevant herein, Defendant acted through its agents, servants and employees, each of whom acted at all times relevant herein in the course and scope of their employment with and for Defendant.

### **FACTUAL BACKGROUND**

11. The foregoing paragraphs are incorporated herein in their entirety as if set forth in full.

12. Plaintiff is a 49-year-old non-Hispanic, Caucasian American citizen.

13. Plaintiff was employed by Defendants as a laborer for almost 30 years, from 1993 until her unlawful termination (discussed further *infra*) on May 2, 2022.

14. Plaintiff also had prior Assistant Manager experience with Defendants.

15. Plaintiff performed her job extremely well for Defendants and worked at least 60-70 hours per week (and was paid bi-weekly) without any history of discipline or performance concerns.

16. Plaintiff was based out of Defendants' Maytown complex location.

17. Plaintiff was supervised by Cheryl Espenshade (*hereinafter* "C. Espenshade") and was indirectly supervised by C. Espenshade's supervisor Duane Leahman (*hereinafter* "Leahman") until Ethan Metzler (*hereinafter* "Metzler") took over his position upon Leahman's retirement.

18. Plaintiff was also generally supervised by CEO and President, Defendant Chris Esbenshade.

19. In the last several years of Plaintiff's employment, Defendants had transitioned nearly its entire manual labor workforce to those of Hispanic ethnicity or race (specifically, those working in the chicken house and processing for Defendants).

20. Most of such Hispanic employees were undocumented noncitizens and/or unauthorized immigrants (and in other words, not authorized to work in the United States).

21. Defendants engaged in such racially targeted hiring directly and by and through a "temp agency" operated by an individual named "Felix" (last name unknown) to surreptitiously conceal the discriminatory replacement of authorized, U.S., and non-Hispanic employees.

22. The trend and blatant pattern was very disturbing, and this was despite Defendants having been investigated and admonished by federal immigration authorities previously in or about 2019.

23. Defendants nonetheless engaged in this brazen (continued) behavior in violation of numerous regulations, including but not limited to 8 U.S. Code § 1324a.

24. Plaintiff objected to this behavior of hiring or selective treatment based upon ethnicity/race to Defendants' management on numerous occasions.

25. In addition to a pattern/trend of hiring Hispanic and/or undocumented citizens, Defendants engaged in a pattern of hiring younger employees overall and engaging in a mission to get rid of the older employees at Defendants.

26. In the spring of 2022, Defendants had to slow or cease certain operations (on a temporary basis) within locations due to an Avian Flu outbreak.

27. This was used as the pretextual basis to get rid of the rest of the limited non-Hispanic (and non-illegal) older employees (for the most part) including Plaintiff via layoff.

28. This reason Defendants has set forth for Plaintiff's termination is pretextual because: (1) Defendants could have moved Plaintiff to different locations (as people were freely used at different locations as need); (2) Plaintiff was far more senior and experienced than others retained; (3) Defendants brought in an influx of Hispanic (and unlawful) help following Plaintiff's layoff for alleged lack of work (as well as transitioning people to the Maytown complex from other locations); (4) a Hispanic employee, Victor Rico, was hired five (5) days prior to the notice of layoffs, and upon information and belief was not laid off by Defendants; and (5) the Commonwealth of Pennsylvania's Department of Agriculture developed a program called the Highly Pathogenic Avian Influenza (HPAI) Recovery Reimbursement Grant which assisted farms like Defendant in financial losses for things including payroll.

29. Plaintiff believes and therefore avers that she was terminated because of: (1) her race, ethnicity, and/or national origin in lieu of Hispanics; (2) in retaliation for making complaints of race, ethnicity, and/or national origin discrimination; and (3) her age.

**COUNT I**  
**Violations of 42 U.S.C. Section 1981**  
**- Against Both Defendants -**  
**(Race Discrimination & Retaliation)**

30. The foregoing paragraphs are incorporated herein in their entirety as if set forth in full.

31. In the last several years of Plaintiff's employment, Defendants had transitioned nearly its entire manual labor workforce to those of Hispanic ethnicity or race (specifically, those working in the chicken house and processing for Defendants).

32. Most of such Hispanic employees were undocumented noncitizens and/or unauthorized immigrants (and in other words, not authorized to work in the United States).

33. Defendant engaged in such racially targeted hiring directly and by and through a "temp agency" operated by an individual named "Felix" (last name unknown) to surreptitiously conceal the discriminatory replacement of authorized, U.S., and non-Hispanic employees.

34. The trend and blatant pattern was very disturbing, and this was despite Defendant having been investigated and admonished by federal immigration authorities previously in or about 2019.

35. Defendant nonetheless engaged in this brazen (continued) behavior in violation of numerous regulations, including but not limited to 8 U.S. Code § 1324a.

36. Plaintiff objected to this behavior of hiring or selective treatment based upon ethnicity/race to Defendant's management on numerous occasions.

37. Plaintiff was abruptly terminated on May 2, 2022 after almost 30 years of employment for pretextual reasons.

38. Plaintiff believes and therefore avers that her race/national origin/ethnicity was a motivating or determinative factor in Defendant's decision to terminate her on May 2, 2022.

39. Plaintiff also believes and therefore avers that she was terminated in retaliation for complaining of racial discrimination in advance of her termination.

40. These actions as aforesaid constitute discrimination and retaliation under Section 1981.

**COUNT II**  
**Violations of Title VII**  
**- Against Defendant Farms Only -**  
**(Racial Discrimination & Retaliation)**

41. The foregoing paragraphs are incorporated herein in their entirety as if set forth in full.

42. In the last several years of Plaintiff's employment, Defendants had transitioned nearly its entire manual labor workforce to those of Hispanic ethnicity or race (specifically, those working in the chicken house and processing for Defendants).

43. Most of such Hispanic employees were undocumented noncitizens and/or unauthorized immigrants (and in other words, not authorized to work in the United States).

44. Defendant engaged in such racially targeted hiring directly and by and through a "temp agency" operated by an individual named "Felix" (last name unknown) to surreptitiously conceal the discriminatory replacement of authorized, U.S., and non-Hispanic employees.

45. The trend and blatant pattern was very disturbing, and this was despite Defendant having been investigated and admonished by federal immigration authorities previously in or about 2019.

46. Defendant nonetheless engaged in this brazen (continued) behavior in violation of numerous regulations, including but not limited to 8 U.S. Code § 1324a.

47. Plaintiff objected to this behavior of hiring or selective treatment based upon ethnicity/race to Defendant's management on numerous occasions.

48. Plaintiff was abruptly terminated on May 2, 2022 after almost 30 years of employment for pretextual reasons.

49. Plaintiff believes and therefore avers that her race/national origin/ethnicity was a motivating or determinative factor in Defendant's decision to terminate her on May 2, 2022.

50. Plaintiff also believes and therefore avers that she was terminated in retaliation for complaining of racial discrimination in advance of her termination.

51. These actions as aforesaid constitute unlawful discrimination and retaliation under Title VII.

**COUNT III**  
**Violations of the Age Discrimination in Employment Act ("ADEA")**  
**- Against Defendant Farms Only –**  
**(Age Discrimination)**

52. The foregoing paragraphs are incorporated herein in their entirety as if set forth in full.

53. Plaintiff is over the age of 40.

54. Plaintiff was treated disparately with respect to work, policies, and termination contrary to individuals substantially younger than her.

55. Plaintiff was abruptly and unfairly terminated on or about May 2, 2022 for pretextual and untrue reasons.

56. Upon information and belief, after Plaintiff was terminated, her work for Defendants has been performed by much younger, less experienced individuals who do not possess the level of qualifications and seniority Plaintiff had obtained working with Defendant.

57. Therefore, Plaintiff believes and avers that she was terminated because of her advanced age.

58. These actions as aforesaid constitute unlawful age discrimination under the ADEA.



**WHEREFORE**, Plaintiff prays that this Court enter an Order providing that:

A. Defendant is to promulgate and adhere to a policy prohibiting discrimination and retaliation in the future against any employee(s);

B. Defendant is to compensate Plaintiff, reimburse Plaintiff, and make Plaintiff whole for any and all pay and benefits Plaintiff would have received had it not been for Defendants' illegal actions, including but not limited to back pay, front pay, salary, pay increases, bonuses, insurance, benefits, training, promotions, reinstatement and seniority;

C. Plaintiff is to be awarded liquidated and/or punitive damages, as permitted by applicable law, in an amount believed by the Court or trier of fact to be appropriate to punish Defendants for their willful, deliberate, malicious and outrageous conduct and to deter Defendants or other employers from engaging in such misconduct in the future;

D. Plaintiff is to be accorded other equitable and legal relief as the Court deems just, proper and appropriate (including but not limited to damages for emotional distress, pain, suffering and humiliation); and

E. Plaintiff is to be awarded the costs and expenses of this action and reasonable attorney's fees as provided by applicable federal and state law.

F. Plaintiff is to be given a jury trial as demanded in the caption of this Complaint.

Respectfully submitted,

**KARPF, KARPF & CERUTTI, P.C.**

By: 

\_\_\_\_\_  
Ari R. Karpf, Esq.  
Allison A. Barker, Esq.  
3331 Street Rd.  
Two Greenwood Square, Suite 128  
Bensalem, PA 19020  
(215) 639-0801

Dated: December 1, 2022

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**CASE MANAGEMENT TRACK DESIGNATION FORM**

Mary Jo Miller

v.

CIVIL ACTION

NO.

Esbensshade, Inc. d/b/a Esbensshade Farms, et al.


In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

**SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:**

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ( )
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ( )
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ( )
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ( )
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ( )
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (X)

12/1/2022

**Date**

  
**Attorney-at-law**

**Plaintiff**

**Attorney for**

(215) 639-0801

**Telephone**

(215) 639-4970

**FAX Number**

akarpf@karpf-law.com

**E-Mail Address**

**DESIGNATION FORM**

(to be used by counsel or pro se plaintiff to indicate the category of the case for the purpose of assignment to the appropriate calendar)

Address of Plaintiff: 523 Indian Rock Circle, Elizabeth, PA 17022

Address of Defendant: 220 Eby Chiques Road, Mount Joy, PA 17552

Place of Accident, Incident or Transaction: Defendants place of business

**RELATED CASE, IF ANY:**

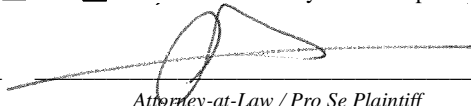
Case Number: \_\_\_\_\_ Judge: \_\_\_\_\_ Date Terminated: \_\_\_\_\_

Civil cases are deemed related when **Yes** is answered to any of the following questions:

- |  |                              |  |
|--|------------------------------|--|
| 1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?  | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?            | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action of this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?  | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |

I certify that, to my knowledge, the within case ☐ is / ☒ is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 12/1/2022

  
Attorney-at-Law / Pro Se Plaintiff

ARK2484 / 91538

Attorney I.D. # (if applicable)

**CIVIL: (Place a ✓ in one category only)**

**A. Federal Question Cases:**

- |                                     |   |
|-------------------------------------|---|
| <input type="checkbox"/>            | 1. Indemnity Contract, Marine Contract, and All Other Contracts |
| <input type="checkbox"/>            | 2. FELA   |
| <input type="checkbox"/>            | 3. Jones Act-Personal Injury                                    |
| <input type="checkbox"/>            | 4. Antitrust  |
| <input type="checkbox"/>            | 5. Patent   |
| <input type="checkbox"/>            | 6. Labor-Management Relations                                   |
| <input checked="" type="checkbox"/> | 7. Civil Rights   |
| <input type="checkbox"/>            | 8. Habeas Corpus  |
| <input type="checkbox"/>            | 9. Securities Act(s) Cases                                      |
| <input type="checkbox"/>            | 10. Social Security Review Cases                                |
| <input type="checkbox"/>            | 11. All other Federal Question Cases                            |

(Please specify): \_\_\_\_\_

**B. Diversity Jurisdiction Cases:**

- |                          |  |
|--------------------------|--|
| <input type="checkbox"/> | 1. Insurance Contract and Other Contracts        |
| <input type="checkbox"/> | 2. Airplane Personal Injury                      |
| <input type="checkbox"/> | 3. Assault, Defamation                           |
| <input type="checkbox"/> | 4. Marine Personal Injury                        |
| <input type="checkbox"/> | 5. Motor Vehicle Personal Injury                 |
| <input type="checkbox"/> | 6. Other Personal Injury (Please specify): _____ |
| <input type="checkbox"/> | 7. Products Liability                            |
| <input type="checkbox"/> | 8. Products Liability – Asbestos                 |
| <input type="checkbox"/> | 9. All other Diversity Cases                     |

(Please specify): \_\_\_\_\_

**ARBITRATION CERTIFICATION**

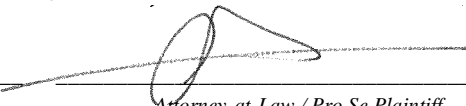
(The effect of this certification is to remove the case from eligibility for arbitration.)

I, Ari R. Karpf, counsel of record or pro se plaintiff, do hereby certify:

☒ Pursuant to Local Civil Rule 53.2, § 3(c) (2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs:

☐ Relief other than monetary damages is sought.

DATE: 12/1/2022

  
Attorney-at-Law / Pro Se Plaintiff

ARK2484 / 91538

Attorney I.D. # (if applicable)

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

